

running from the light on the end of the Kellstone dock on the east side of Kelleys Island to the middle of the channel between Carpenter point and the Red #2 Buoy off the point, and (3) 300 by 1000 yard areas off each of the ferry docks on South Bass Island, Catawba Island, Kelleys Island, and Marblehead.

Under this option, the area marked off for no anchoring or drifting would be approximately 3% of the total area of the South Passage. Other forms of navigation would not be restricted.

Draft Regulatory Text, Option 4-B:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* The following areas in the South Passage of Western Lake Erie are regulated navigation areas:

(1) Scott Point Shoal and Starve Island Reef Channel: an area 300 yards to either side of a line (approximately 1 statute mile long) running northwesterly (302° T) from a point at 41°36'17" N, 82°48'19" W (approximately 300 yards northeast of Scott Point Shoal Green Buoy #1) to a point at 41°36'40" N, 82°49'16" W (approximately 300 yards southwest of Starve Island Reef Red Buoy #2).

(2) Kellstone Approach Channel: an area 150 yards to either side of a line (approximately 1¼ statute miles long) running southwesterly (235° T, on a line of sight from the Kellstone Crib Light to the West Harbor Entrance Channel Light #1) from the Kellstone Crib Light at 41°36'36" N, 82°43'40" W to a point at 41°36'02" N, 82°44'50" W.

(3) Marblehead Stone Dock Approach Channel: an area 150 yards to either side of a line running 019° T for 1000 yards from the Marblehead Stone Dock Light at 41°32'42" N, 82°43'48" W.

(4) South Passage Ferry Approach Channels: areas 150 yards to either side of lines 1000 yards long running:

(i) 000° T from the ferry docks on the north side of Catawba Island (41°35'16" N, 82°50'13" W);

(ii) 180° T from the ferry dock on the south side of South Bass Island (41°37'43" N, 82°50'13" W);

(iii) 0006° T from the Neuman ferry dock at Marblehead (41°32'39" N, 82°43'55" W);

(iv) 186° T from the Neuman ferry dock on the south side of Kelleys Island (41°35'42" N, 82°43'31" W);

(v) 019° T from the Kellstone ferry dock at Marblehead (41°32'38" N, 82°43'39" W); and

(vi) 099° T from the Kellstone ferry dock on the south side of Kelleys Island (41°35'21" N, 82°42'20" W).

(b) *Regulations.* Vessels shall not anchor or drift in these regulated navigation areas.

Option 4-C. Designated give-way areas. The same areas indicated above in either Option 4-A or Option 4-B, either lanes or choke points, could be designated as areas in which vessels less than 20 meters in length are obligated to clear the designated area upon the

approach of barges, ferries, or other commercial vessels greater than 20 meters in length. In effect, this would be creating a "narrow channel" rule for each of these designated areas. Such a rule may or may not already apply in some of these areas depending on interpretation on the general rules. But this would make it clear and unambiguous, with notice to all parties beforehand. However, it is difficult to specify a practical decision rule for determining how close the approaching large vessel need be before the small vessel would be obligated to clear the channel.

Draft Regulatory Text, Option 4-C:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* [Locations would be the same as those in either Option 4-A or Option 4-B above.]

(B) *Regulations.* In these regulated navigation areas, all vessels less than 20 meters in length shall clear the area upon the approach of barges, ferries, or other commercial vessels greater than 20 meters in length.

Drafting Information

The drafters of this regulation are Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, the project officer, and Commander Eric Reeves, Chief, Marine Safety Analysis and Policy Branch, Marine Safety Division, Ninth Coast Guard District.

The Environment, the Economy, and Federalism

The Coast Guard invites comments on significant effects that any of the actions or nonactions proposed in this notion would have on the environment, economics, or federalism:

(1) Would any of these proposed regulations or other options considered here have a significant environmental impact on the South Passage, Lake Erie, or nearby shore areas? If so, what resources would be impacted? How would the impacts be likely to occur?

(2) Would any of these proposed regulations or other options considered here have a significant economic impact on any small business or other small entity? If so, what are the likely costs? How would those costs be incurred?

(3) Would any of these proposed regulations or other options considered here intrude into areas traditionally not regulated by the Federal Government or otherwise implications for Federal and State relations?

Dated: December 2, 1996.

John A. Bastek,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5668-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Minot Landfill Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Minot Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of North Dakota (State) have determined that the Site as remediated poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before January 27, 1997.

ADDRESSES: Comments may be mailed to: Erna Acheson Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Mail Stop EPR-SR, Denver, Colorado 80202-2466.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Minot Landfill site information repositories at the following locations:

Superfund Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th Floor, Denver, Colorado 80202-2466, (303) 312-6473. Hours of operation are 8:00 a.m. to 4:30 p.m.

Background information from the Regional public docket is also available for viewing at the Minot Landfill Site

information repository located at the City of Minot Offices, 1025 31st St., S.E. Minot, North Dakota 58701, (701) 857-4140. Contact: Alan Walter.

FOR FURTHER INFORMATION CONTACT: Erna Acheson Waterman, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Mail Stop 8EPR-SR, Denver, Colorado 80202-2466, (303) 312-6762.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. NPL Deletion Criteria
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I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Minot Landfill Site (Site) located in Minot, North Dakota from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The Site is identified as the Old Minot Landfill Site in many of the Site documents. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Minot Landfill Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

- (i) Responsible parties or other parties have implemented all appropriate response actions required;
- (ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or
- (iii) The remedial investigation has shown that the release poses no

significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

For all Remedial Actions (RA) which result in hazardous substances, pollutants, or contaminants remaining at the site, CERCLA requires a review of such action be conducted no less than every five years after initiation of Remedial Action. Pursuant to CERCLA § 121(c), 40 C.F.R § 300.400(f)(4)(ii) and OSWER Directive 9355.7-02, Structure and Components of Five-year Review Guidance, July 26, 1994, EPA Region VIII must conduct a statutory five-year review at this Site prior to the end of the third quarter of 2001 (five years after Remedial Action on-site construction mobilization).

III. Deletion Procedures

EPA Region VIII will accept and evaluate public comments before making a final decision to delete the Minot Landfill Site. The following procedures were used for the intended deletion of this Site:

1. EPA Region VIII has recommended deletion of the Minot Site and has prepared the relevant documents;
2. The State of North Dakota has concurred with EPA's recommendation for deletion;
3. Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete;
4. The Region has made all relevant documents available in the Regional Office and local Site information repositories;
5. Prior to deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant comments received. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

6. Deletion of the Site from the NPL does not in itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that the deletion of a Site from the NPL does not preclude eligibility for future response actions should future Site conditions warrant such action.

7. A deletion occurs when the Regional Administrator places a final notice in the Federal Register. Generally, the NPL will reflect deletions in the final update following the Notice.

IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Minot Landfill Superfund Site.

A. Site Background

The Minot Landfill Superfund Site is located in Section 27, Township 155 North, Range 83 West, approximately one mile southwest of downtown Minot, in Ward County, North Dakota. The Site is situated approximately 2,000 feet south of the Souris River and is located to the east of the intersection of the Burdick Expressway and the combined U.S. Highways 2 and 52 Bypass. The area that received municipal and industrial waste covered approximately 26 acres. Land use in the vicinity of the Site is light industrial and residential, with areas south-west of the Site used for agriculture.

The Site was placed on the National Priorities List (NPL) in 1989, Federal Register, Volume 54, No. 61, March 31, 1989, Page 13296.

In 1989, a Removal Action was initiated by the City of Minot. The Removal Action involved installation of a fence around the perimeter of the landfill, construction of surface runoff/erosion control (including swales and storm sewer piping), and seeding of areas disturbed by construction and exposed slopes on the hills located along the southern edge of the site. In 1990, additional work to repair drainage ditches and swales was performed to complete the Removal Action.

B. History

The Site was used to dispose of municipal and industrial waste between 1961 and 1971. The landfill was operated by the City of Minot. An estimated 75 tons/day of waste was placed in the landfill during its operation. The exact composition of the wastes disposed is not known. Discussions with past landfill operators indicate that refuse was received from the City of Minot, other neighboring towns, farms, industries, and military sites. In addition, the landfill likely contains arsenic-contaminated soils and residues, and solvents used in a variety of local industrial applications.

C. Characterization of Risk

Sampling and field studies were conducted by the City of Minot's consultant in order to prepare the Site-

wide Remedial Investigation (RI) Report. The RI Report, completed in 1992, characterized contamination for the entire Site.

Residential, commercial recreational, and agricultural areas are currently located in the vicinity of the Site, and nearly a quarter (8,000) of Minot's population lies within a one-mile radius of the Site. Since the latter part of 1989, most of the Site has been enclosed with a chain-link fence and, consequently, public access to the Site is presently restricted. Future land use for the areas adjacent to the Site is expected to be commercial and light industrial. A Baseline Risk Assessment (BRA) was prepared for the Site to evaluate potential human health risks associated with the Site in absence of any remedial action. Contaminated media that were quantitatively evaluated in the risk assessment were groundwater (including leachate), surface water, soil, sediment, and landfill gases. Potentially exposed receptors evaluated in the BRA were: (1) adult residents and occupational workers who live or work at or in the vicinity of the Site; and (2) active children between the ages of 3 to 12 years who live or play in the vicinity of the Site.

Once the contamination at the Site was characterized, an evaluation was made of the remedial measures that would be necessary to achieve specified cleanup goals. This evaluation and cleanup goals are contained in the Site Feasibility Study (FS), completed in 1992 by the City of Minot's consultant.

Additionally, a geophysical survey investigation, a borrow source investigation, and aerial surveying were performed in April and May 1993, by the City of Minot's consultant.

Upon completion of the Remedial Investigation/Feasibility Study (RI/FS) for the Site, EPA issued a Record of Decision (ROD) for the Site on June 21, 1993. Due to timing conflicts, this ROD did not include the results of the geophysical survey investigation. An Explanation of Significant Differences (ESD) was prepared to address the geophysical survey and additional information related to various components of the remedy presented at a remedial design kickoff meeting on January 23, 1996, between the City of Minot, EPA, North Dakota Department of Health (NDDH) and the City's consultant, Wenck Associates, Inc. (Wenck). The approved ESD for the Old Minot Landfill Superfund Site was issued April 10, 1996.

In April 1996, a Remedial Design Report describing the remedial actions to be implemented at the Minot Landfill

Site was approved by the EPA and NDDH.

The Remedial Action at the Site took place during the months of July, August and September 1996. The elements of the Remedial Action are: Grading of the landfill and installation of a vegetated cover; installation of rip-rap around catch basins; installation of drains to collect leachate within the landfill for conveyance to the City of Minot waste water treatment facility; installation of riser pipes to serve as passive gas vents with removable wind turbines to help remove gas from the landfill; installation of seven groundwater monitoring wells and four piezometers to be used in longer term groundwater monitoring. Institutional Controls have been put into place to restrict or control land use within and adjacent to the Site boundaries.

Maintenance of fences, vegetated cover, groundwater monitoring and other longer term aspects of the response actions are addressed in the Monitoring Operations and Contingency Plan which was approved by EPA and the State of North Dakota on November 7, 1996. The Final Remedial Action Completion Report was approved by EPA and the State of North Dakota on November 29, 1996.

V. Community Relations

EPA produced a fact sheet on the site in October 1989. The City of Minot held a public meeting on the landfill in January 1990.

An EPA community involvement coordinator conducted interviews of Minot citizens during the week of September 25, 1990. EPA completed a Community Relations Plan for the Old Minot Landfill in November 1991. A mailing list of key contacts was developed.

EPA established an information repository at the Minot Public Library and placed a public notice announcing the repository's creation and location in the Minot Daily News.

A public notice was placed in the Minot Daily News announcing availability of the Remedial Investigation/Feasibility Study (RI/FS) Work Plan. An information update concerning human health risks at the Site was placed in the Minot Daily News on July 17, 1992.

EPA issued a Proposed Plan for Site cleanup in December 1992 and placed a public notice announcing the availability of the Proposed Plan, the initiation of the public comment period and the date of a Public Hearing on the Proposed Plan in the Minot Daily News. EPA held a public comment period on the Proposed Plan from January 4, 1993

to March 4, 1993, and EPA conducted the public hearing on January 19, 1993 at the Minot City Hall.

The Record of Decision (ROD) was issued on June 21, 1993. A public notice announcing the issuance of the Record of Decision was placed in the Minot Daily News. The ROD contains a Responsiveness Summary that addresses the public comments that were received.

The Community Relations Plan was updated in November 1994.

A public notice announcing changes in the cleanup and the availability of an Explanation of Significant Differences was placed in the Minot Daily News on May 15 and 19, 1996.

Alan Walter, Public Works Director for the City of Minot appeared in the news media and provided information to the public both at the beginning and completion of the Remedial Action.

VI. Summary

The completed remedy results in hazardous substances remaining on-site above levels which allow for unlimited and unrestricted access; therefore institutional controls and operation and maintenance activities will be required.

For all Remedial Actions (RA) which result in hazardous substances, pollutants, or contaminants remaining at the Site CERCLA requires that a review of such action be conducted no less than every five years after initiation of the Remedial Action. Pursuant to CERCLA § 121(c), 40 C.F.R. § 300.400(f)(4)(ii) and OSWER Directive 9355.7-02, Structure and Components of Five-year Review Guidance, July 26, 1994, EPA Region VIII must conduct a statutory five-year review at this Site prior to the end of the third quarter of 2001 (five years after Remedial Action on-site Construction Mobilization). All completion requirements for the Minot Landfill Site have been achieved as outlined in OSWER Directive 9320.2-3A.

EPA, with the concurrence of the State of North Dakota, has determined that all appropriate response actions required by CERCLA at the Minot Landfill Site have been completed, and that no further cleanup by responsible parties is appropriate.

Dated: December 12, 1996.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

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